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Development (1948) Department.

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Letter 148.

Dated 14-4-48.

[Despatch Abstract.]

- I.L.O. Convention concerning the night work of young persons
ed in industry - Partial revision.

GOVERNMENT OF INDIA.
MINISTRY OF LABOUR.

No.L.C. 1 (1). Dated New Delhi, the 13th March 1948.

From

V. Narayanan, Esquire,
Deputy Secretary to the Government of India.

To

The Provincial Governments and Chief Commissioners.

Subject: Partical revision of the Convention concerning the night work of young persons employed in Industry(1919).

Sir,

One of the subjects on the agenda of the forthcoming International Labour Conference to be held at San Fransisco in June 1948 is the "Partial Revision of the Convention concerning the night work of young persons employed in industry". The International Labour Office has sent the revise texts which will be submitted to the Conference for considerat and vote. The text of the existing Convention and the amend- ments proposed is enclosed herewith.

2. In the Convention, as it stands, there is a speci clause which limits its application " to male young persons not over 14 years of age" working in factories as defined in the Indian Factories Act. In other words, the Convention in its application to India prohibits the employment of male youn persons not over 14 years of age in factories during "night", which term signifies a period of at least eleven consecutive hours including the interval between 10 p.m. in the night and 5 a.m. in the morning. This requirement is satisfied by section 54 of the Indian Factories Act, 1934.

3. It has now been proposed that industrial under- takings, so far as India is concerned, should include:-

(a) factories as defined in the Indian Factories Act;
(b) Mines as defined in the Indian Mines Act; and
(c) all employments covered by the Employment of Children Act, 1938,

4. The Convention when revised, will provide (Vide Article 2 paragraph 1 (a) (b) that young persons who have not attained the age of 17 should not be allowed to work at "night" The expression 'night' means a period of twelve consecutive hours including:-

(a) the interval between 10 p.m. in the evening and 6 a.m. in the morning in the case of children who have not attained 15 years of age, and

(b) the interval between 10 p.m. in the evening and 5 a.m. in the morning/the case of young persons who have attained the age of 15 but are under 17.

The existing provision in the Factories Act will cover (a). As regards (b) under the present Factories Act, as also under the Factories Bill now before the Central Legislature, young persons between 15 and 17 years of age are divided into two categories:

(a) those who are certified as being fit to work as adults; and

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(b) those certified as fit to work as children.

The prohibition regarding night work referred to in Section 54 of the Indian Factories Act and which is reproduced in Section 72 of the Factories Bill applies only to children, that is to say, young persons under 15 years of age and to such of those between 15 and17 years of age, as have not been granted certificates of fitness to work as adults. If the proposed revision is accepted, it would be necessary to make provision for the prohibition of employment between the hours of 10 p.m. and 5 a.m. of all young persons under 17 years of age that is to say, including those who have been given certificates of fitness to work as adults. I am to enquire whether there will be any difficulty, administrative or otherwise, in enforcing this provision.

5. Attention is also invited to the provisions of paragraphs 2 of the revised article 2 and paragraphs 2,3,4 and 5 and the revised article 3 and the provisions of other articles; it is presumed that they are accetable and no amendments thereto need be asked for.

6. The employments covered by the Employment of Children Act are railways, ports and processes listed in the schedule to the Act, viz. (1) ~~Bill-~~making: (2) Carpet Weaving; (3) Cement Manufacture, including bagging of cement; (4) Cloth printing - Dyeing and Weaving; (5) Manufacture of Matches, explosives and fire works; (6) Mica Cutting and Splitting ; (7) Shellac Manufacture; (8) Soap Manufacture (9) Tanning (10) Wool cleaning, and such other employments to which the Act might have been made applicable by the Provincial Governments. In so far as workshops falling within the scope of the definition of 'factories' are concerned there will be no difficulty ~~in~~ applying the provisions. As the Act applies to all workshops engaged in the scheduled processes irrespective of the number of persons employed therein, the question arises whether administrative arrangements can be made to enforce the prohibition of employment of young persons under 17 years of age during nights in workshops employing less than 10 persons where power is used and employing less than 20 persons in other cases (on the assumption that the definition of factories embodied in the Factories Bill now before the Central Legislature will be accepted). In this connection I am to invite the attention of the Provincial Government to Article 6 of the Convention, as it will stand after revision, requiring that national laws and regulations giving effect to the provisions of this Convention should, among other things:

> "(a) provide for the maintenance of a system of inspection adequate to ensure effective enforcement;
>
> (b) to require every employer in an industrial undertaking to keep a register, or to keep available official records showing the names and dates of birth of all persons under seventeen years of age employed by him and their hours of work; and
>
> (c) that annual reports should contain information concerning such laws and regulations and a general survey of the results of the inspections made in accordance therewith".

If the provincial Government can make satisfactory arrangements for giving effect to the principles of the Conventions in all workshops in the scheduled employments and

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minor ports the suggestion made by the International Labour Office regarding the extension of the scope of the Convention in its application to India can be agreed to. Otherwise it would be necessary to ask for its elimination.

7. It will be seen that the Convention, if revised as proposed by the International Labour Office, will apply to mine workers also. Under the Indian Mines Act as it stands, children under 15 years of age are not allowed to work. If the revised Convention is accepted, it will be necessary to amend the Act and prohibit the employment of young persons under 17 years of age, whether certified as fit to work as adults or not during "nights", which term signifies a period of twelve consecutive hours including the period between 10 p.m. in the night and 5 a.m. in the morning. There would be no difficulty in regard to the period of 12 hours, as no worker can work for more than 8 hours underground and 9 hours above ground. The new prohibition will relate only to the period between 10 p.m. in the night and 5 a.m. in the morning. I am to enquire whether there will be difficulty in enforcing this provision. It may be noted that such provision will apply to workers both underground and above ground.

8. I am to request that a reply to this letter be sent so as to reach this Ministry by the 15th April at the latest.

I have the honour to be,
Sir,
Your most obedient servant,

Sd.V. Narayanan.
Deputy Secretary to the Government of India.

/True Copy/

GOVERNMENT OF INDIA.
MINISTRY OF LABOUR.
INDIAN LABOUR CONFERENCE : Ninth - Session :

Text of Convention (15.6) concerning the Night Work of Young Persons employed in Industry (1919)	Proposed Text of Convention (No.), concerning the Night Work of Children and Young Persons Employed in Industry (revised 1948).
Article 1.	
1. For the purpose of this Convention, the term "industrial under-taking" includes particularly:	1. For the purpose of this Convention the term "industrial under-taking" includes particularly:
(a) Mines, quarries, and other works for the extraction of minerals from the earth.	(a) Mines, quarries and other works for the extraction of minerals from the earth.
(b) Industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up, or demolished, or in which materials are transformed, including ship building and the generation transformation, and transmission of electricity or motive power of any kind.	(b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted, for sale broken up or demolished, or in which materials are transformed, including undertakings engaged in ship-building or in the generation transformation or transmission of electricity or motive power of any kind;

(c) Construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour dock, pior, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, water work, or other work of construction as the preparation for or laying the foundation of any such work of structure.

(c) undertakings engaged in buildings and civil engineering work, including constnuctional, repair, maintenance, alteration and demolition work.

(d) Transport of passengers or goods by road or rail, including the handling of goods at docks, quays, wharves, and warehouses, but excluding transport by hand.

(d) undertakings engaged in the transport of passengers or goods by road, rail, inland waterway or air, including the handling of goods at docks quays, wharves, warehouses or airports.

(e)
2. The competent authority in each country shall define the line of divisions which separates industry from commerce and agriculture.

(e) The competent authority shall define the line of division which separates industry from agriculture, commerce and other non-industrial occupations.

3. National laws or regulations may exempt from the applications of this Convention employment on work which is not deemed to be harmful, prejudicial, or dangerous to children or young persons in family under-takings in which only parents and their children or wards are employed.

(See above, Article 11, paragraph 3, and below, Article 3, paragraphs 1 and 2).

Article 2.

1. Young persons under eighteen years of age shall not be employed during the night in any public or private industrial undertakings, or in any branch thereof, other than an undertaking in which only members of the same family are employed except as hereinafter provided for.

2. Young persons over the age of sixteen may be employed during the night in the following industrial undertakings on work which, by reason of the nature of the process, is required to be carried on continuously day and night:

(a) Manufacture of iron and steel: processes in which reverboratory or regenerative furnaces are used, and galvanising of sheet metal or wire (except the pickling process).

(b) Glass works.

(c) Manufacture of paper.

(d) Manufacture of raw sugar.

(e) Gold mining reduction of work.

Article 3

1. For the purpose of this Convention the term "night" signifies a period of at least eleven consecutive hours, including the interval between ten o' clock in the evening and five 0' clock in the morning.

2. In coal and lignite mines work may be carried on in the interval between ten o' clock in the evening and five o' clock morning, if an interval of ordinary fifteen hours, and no case of loss than thirteen hours, separates two periods of work.

3. Where night work in the baking industry is prohibited for all workers, the interval between nine o' clock in the evening and four o' clock in the morning may ~~be~~ substituted in the baking industry for the interval between ten o' clock in the evening and five o' clock in the morning.

4. In these tropical countries in which work is suspended during the middle of the day the night period may be shorter than eleven hours if compensatory rest is accorded during the day.

(See above, Article 2 and Article 3 paragraphs 2 and 3)

Article 2.

1. For the purpose of this Convention the term "night" signifies a period of at least twelve consecutive hours, including:

(a) in the case of children and young persons under sixteen years of age, the interval between ten o' clock in the evening and six o' clock in the morning:

(b) in the case of young persons who have attained the age of sixteen years but are under the age of eighteen years, the interval between ten o' clock in the evening and five o' clock in the morning.

2. Provided that the competent authority may, after consultation with the employers' and workers' organisations concerned, decide that in the case of young persons employed in a given area, industry, undertaking, of branch thereof, who have attained the age of sixteen years but are under the age of ~~sixteen years but are under the age of~~ eighteen years, another interval of seven consecutive hours falling between eleven o' clock in the evening and seven o' clock in the monring may be substituted for the interval between ten o' clock in the evening and five o' clock in the morning.

Article 3.

1. Children and young persons under eighteen years of age shall not be employed or work during the night in any public or private industrial undertaking or in any branch thereof except as hereinafter provided for.

2. Young persons who have attained the age of sixteen years may be employed during the night in the following industrial undertakings and processes on work, which, by reason of the nature of the process, is required to be carried on continuously day and night.

(a) manufacture of iron and ~~steel~~ steel;

2.
(b) processes in which reverberatory or regenerative furnaces are used;
(c) galvanising of sheet metal or wire (except the pickling process);
(d) glass works;
(e) manufacture of paper;
(f) manufacture of raw sugar;
(g) gold mining reduction work.

3. The competent authority shall, after consultation with the employer's and workers' organisations concerned, define the work upon which the young persons designated under paragraph 2 of this Article may be employed at night; young persons who are so employed at night shall enjoy a rest period of at least thirteen consecutive hours between two periods of work.

4. The competent authority may after consultation with the employers' and workers' organisations concerned, permit young persons who have attained the age of sixteen years to be employed during the night in coal and lignite mines if an interval of at least thirteen hours separates two periods of work.

5. Where night work in the baking industry is prohibited for all workers, the interval between nine o' clock in the evening and four o' clock in the morning may, for purposes of vocational training, be substituted for the interval between ten o' clock in the evening and five o' clock in the morning, in the case of young persons who have attained the age of sixteen years.

Article 4.

1. In countries where the climate renders work by day particularly trying the night period may be shorter than that prescribed in the above articles if compensatory rest is accorded during the day.

(See above, Article 3, paragraph 4)

Article 4.

The provisions of Articles 2 and 3 shall not apply to the night work of young persons between the ages of sixteen and eighteen years in case of emergencies which could not have been controlled or foreseen, which are not of a periodical character, and which interfere with the normal working of the industrial undertaking.

(See below, Article 7)

2. The provisions of Articles 2 and 3 shall not apply to the night work of young persons between the ages of sixteen and eighteen years in case of emergencies which could not have been controlled or foreseen, which interfere with the normal working of the industrial undertaking.

Article 5.
The prohibition of night work may be suspended by the Government, for

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young persons between the ages of sixteen and eighteen years, when in cases of serious emergency the public interest demands it.

Article 6.

1. The laws or regulations giving effect to the provisions of this Convention shall:
(a) require the competent authority to bring them to the notice of all persons concerned:
(b) define the persons responsible for compliance therewith;
(c) prescribe adequate penalties for any violation thereof;
(d) provide for the maintenance of a system of inspection adequate to ensure effective enforcement;
(e) require every employer in an industrial undertaking to keep a register or to keep available official records showing the names and dates of birth of all persons under eighteen years of age employed by him and their hours of work.

2. The annual reports submitted by Members under Article 22 of the Constitution of the International Labour Organisation shall contain full information concerning such laws and regulations and a general survey of the results of the inspections made in accordance therewith.

PART II SPECIAL PROVISIONS FOR CERTAIN COUNTRIES.

Article 7.

1. Any Member which, before the date of the adoption of the laws or regulations permitting the ratification of this Convention, had laws or regulations restricting the night work of children in industry under an age limit lower than eighteen years may, by a declaration accompanying its ratification, substitute an age-limit lower than eighteen years, but in no case lower than sixteen years, for the age-limit prescribed in Article 3, paragraph 1.

2. Any Member which has made such a declaration may at any time cancel that declarations by a subsequent declaration.

3. Every Member for which a declaration made in virtue of paragraph 1 of this

1.

[illegible]

In the application of this Convention to Japan, until Ist July 1925, Article 2 shall apply only to young persons under fifteen years of age and thereafter it shall apply only to young persons under sixteen years of age.

Article 6.

In the application of this Convention to India, the term "industrial undertaking" shall include only "factories" as defined in the Indian Factory Act and Article 2 shall not apply to male young persons over fourteen years of age.

2.

Article is in force shall indicate each year in its annual report upon the application of this Convention the extent to which any progress has been made with a view to the full applicati of the provisions of the Convention.

Article 8.

In the application of this Convention to Japan, Part I shall apply only to young persons under sixteen years of age.

Article 9.

1. The provisions of Part I of this Convention shall apply to Indian subject to the modifications set forth in this Article.

2. The said provisions shall apply to all territories in respect of which the Indian Legislature has jurisdiction to apply them.

3.The term "industrial undertaking" shall include:-

(a) factories as defined in the Indian Factories Act.

(b) mines as defined in the Indian Mines Act;

(c) all employments covered by the Employment of Children Act, 1938.

4. Article 2, paragraph 1 (a), shall apply to children who have attained the age of thirteen years but are under the age of fifteen years.

5. Article 2, paragraph 1 (b) and paragraph 2, shall apply to young persons who have attained the age of fifteen years but are under the age of seventeen years.

6. Article 3, paragraph 1, and Article 4, paragraph 1, shall apply to children and young persons under the age of seventeen years.

7. Article 3, paragraphs 2,3,4 and 5 Article 4, paragraph 2, and Article 5 shall apply to young persons who have attained the age of fifteen years but are under the age of seventeen years.

8. Article 6 shall apply to children and young persons under the age of seventeen years.

Article 10.

1. The provisions of Part I of this Convention shall apply to Pakistan subject to the modifications set forth in this Article.

2. The said provisions shall apply to all territories in respect of which the Pakistan legislature has jurisdiction to apply them.

3. The term "industrial undertaking" shall include:

(a) factories as defined in the Factories Act;
(b) mines as defined in the Mines Act;
(c) all employments covered by the Employment of Children Act, 1938.

4. Article 2, paragraph 1 (a) shall apply to children who have attained the age of thirteen years but are under the age of fifteen years.

5. Article 2, paragraph 1 (b) and paragraph 2, shall apply to young persons who have attained the age of fifteen years but are under the age of seventeen years.

6. Article 3, paragraph 1, and article 4, paragraph 1, shall apply to children and young persons under the age of seventeen years.

7. Article 3, paragraphs 2,3,4 and 5 Article 4, paragraph 2, and Article 5 shall apply to young persons who have attained the age of fifteen years but are under the age of seventeen years.

8. Article 6 shall apply to children and young persons under the age of seventeen years.

Article 11.

1. The International Labour Conference may, at any session at which the matter is included in its agenda, adopt by a two-thirds majority draft amendments to any one or more of the preceding article of Part II of this Convention.

2. Any such draft amendment shall state the member or Members to which it applies, and shall, within the period of one year or, in exceptional circumstances, of eighteen months from the closing of the session of the Conference, be submitted by the Member

or Members to which it applies to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action.

3. Each such Member will, if it obtains the consent of the authority or authorities within whose competence the matter lies, communicate the formal ratification of the amendment to the Director-General of the International Labour Office for registration.

4. Any such draft amendment shall take effect as an amendment to this Convention on ratification by the Member or Members to which it applies.

Article 7.

The prohibition of night work may be suspended by the Government, for young persons between the ages of sixteen and eighteen years, when in case of serious emergency the public interest demands it.

(See above Article 5).

Articles 8 to 15 (Standard articles)

Part III. Final Articles.

(To be inserted in the text by the Drafting Committee - see proposed Resolution, Appendix I, page 49.

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//True Copy/

Development Department.

Letter Ms. No. 1856 , dated 14th April 1948.

To

The Secretary to the Government of India,
Ministry of Labour.

Sub: Labour - I.L.O. Convention concerning the night work of young persons employed in industry - Partial revision:-

Ref: Mr. Narayanan's letter No.L.C.I(1) dated 13-3-48.

***

I am directed to state that the Government of Madras are generally in agreement with the revised texts of the Convention concerning the night work of young persons employed in industry and that they do not anticipate any difficulty to in enforcing the provisions of the revised Convention.

Yours faithfully,

Sd. x x x
8-4-48.

Copy to the Commissioner of Labour.
(with ref. to his letter no C.L 22/11/48 dt 26.2.48)
/True Copy/

ss/4-9.

Office Assistant,
MADRAS RECORD OFFICE.
31/12/53